

FLORIDA CRIMINAL ALIEN REMOVAL PROGRAM

Agreement #A704

MEMORANDUM OF AGREEMENT

I. Preamble

This Memorandum of Agreement (MOA), executed among the U.S. Immigration & Naturalization Service (INS), the Executive Office for Immigration Review (EOIR), and the Florida Department of Corrections (FDC), by and through the undersigned representatives, hereby sets forth duties and responsibilities relating to the Florida Criminal Alien Removal Program (FCARP). This MOA supersedes the FCARP agreement that was executed on April 17, 1995.¹ This MOA is executed to establish the duties and responsibilities referenced herein.

II. Purpose

The purpose of this MOA is to provide a mechanism for the early identification of foreign born non United States citizen or national (a.k.a. alien) inmates admitted to Florida's prison system whereby they are quickly identified, processed, and where appropriate, transferred from FDC custody to INS custody on or before sentence expiration.²

III. Scope of Duties and Responsibilities

A. MIAMI DISTRICT OFFICE OF THE U.S. IMMIGRATION AND NATURALIZATION SERVICE

Pursuant to this MOA, the duties and responsibilities of the INS shall include, but are not limited to, the following:

1. INS will maintain an Institutional Removal Program Unit (IRP) that is, and will continue to be, responsible for the operation of the Florida Criminal Alien Removal Program. The Director of the IRP shall serve as liaison among all parties to this agreement;
2. INS will prepare a charging document, currently known as a Notice to Appear, and detainer on all alien inmates amenable for removal from the United States, and will serve charging documents on all alien inmates where IRP staff is assigned to FDC institutions;
3. INS will assume custody, in a timely manner, of all criminal aliens housed with the FDC upon expiration of sentence;
4. INS will process all Executive Clemency removal cases for entry into the National Crime Information Center (NCIC). INS will present for prosecution to the United States Attorneys Office all Executive Clemency cases which involve reentry after deportation or removal; and
5. Oversight by the INS regarding this MOA will be provided by the Miami District Director or his/her designee.

¹ The first removal initiative in Florida commenced April 1988.

² This MOA is separate and distinct from the MOU executed between Governor Lawton Chiles, INS Commissioner Doris Meissner and Anthony Moscato, Director EOIR on April 7, 1994, relating to expedited removal/conditional commutation of sentence for certain non-violent criminal aliens incarcerated with the Florida Department of Corrections.

Pursuant to this MOA, the duties and responsibilities of the FDC will include, but are not limited to, the following:

1. FDC will insure that all inmates within its custody and control are present for scheduled hearings at the appropriate hearing site established by FDC, INS and EOIR by the hearing date and time scheduled;
2. FDC will provide appropriate hearing room space for EOIR at each of the designated hearing sites;
3. FDC will provide the alien inmate with EOIR's Notice of Hearing as prescribed by law;
4. FDC will provide INS with copies of judgment and commitment orders on all suspected alien inmates;
5. FDC will provide interview and work areas at FDC institutions where INS staff is assigned;
6. FDC will insure that, prior to release, alien inmates with INS detainers are at an established release site;
7. FDC will serve INS's charging documents on all alien inmates where INS staff is not assigned;
8. FDC will provide INS reasonable notice regarding alien inmates with specific medical needs to assist in coordinating transportation, handling and placement of the inmate; and
9. Oversight by FDC regarding this MOA will be provided by the Secretary of the Department of Corrections or his/her designee.

C. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Pursuant to this MOA, the duties and responsibilities of the Executive Office for Immigration Review will include, but are not limited to, the following:

1. EOIR will schedule hearings to determine an alien's immigration status within 5 days of the filing of a charging document by an INS Assistant District Counsel. Once scheduled, EOIR will provide the hearing date and location to FDC and INS;
2. EOIR will provide the appropriate FDC facility with the Notice of Hearing consistent with established protocols;
3. EOIR will continue to use telephonic means for master calendar hearings at the discretion of the Immigration Judge when in-person hearings are not required;
4. EOIR will establish special hearing initiatives if it determines it necessary to accommodate the state of Florida's Executive Clemency Program;
5. EOIR will expedite the provision of the disposition of inmate hearings to FDC via the Automated Nationwide System for Immigration Review (ANSIR);
6. Oversight by EOIR regarding this MOA will be provided by the Chief Immigration Judge or his/her designee.

D. JOINT RESPONSIBILITIES

1. INS in coordination with the FDC will identify and process for removal alien inmates in FDC's Reception Centers;
2. INS and FDC will continue to develop and implement the use of video-teleconferencing equipment for conducting interviews with suspected alien inmates identified during the intake process at the respective Reception Center;
3. EOIR and FDC will continue to develop and implement the use of video-teleconferencing equipment for conducting in-person master calendar or individual merit hearings. Use of video-teleconferencing equipment for individual merit hearings is solely within the discretion of the Immigration Judge;
4. INS and FDC will establish INS release sites to coordinate the assumption of custody by INS of alien inmates prior to the expiration of their sentences;
5. INS and FDC will establish procedures for immediate release cases to coordinate transfer of custody of alien inmates from FDC to INS; and
6. Representatives from INS, EOIR and FDC will establish and maintain mutually consistent operating procedures to ensure efficient and effective implementation of this MOA.

IV. Review and Updating of MOA

To facilitate continuing review and further enhancements to the FCARP, meetings will be held among representatives from the Florida Department of Corrections, the Executive Office for Immigration Review, and the U.S. Immigration & Naturalization Service on at least a biannual basis commencing no later than 6 months from the execution of the MOA.

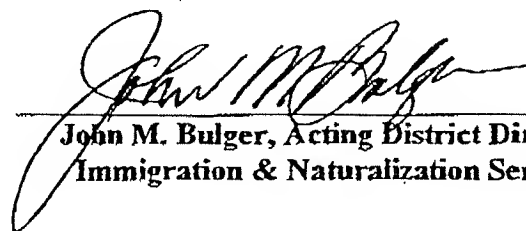
APPROVAL AND SIGNATURE

Executed this 28 day of NOV 2001



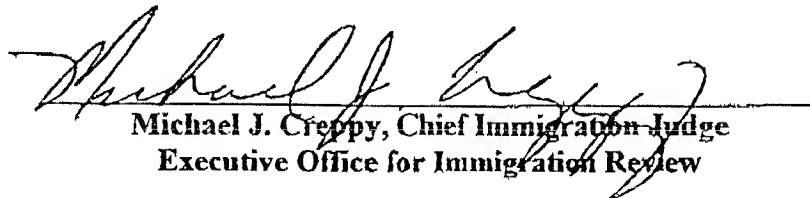
Michael W. Moore, Secretary
Florida Department of Corrections

Executed this 28 day of NOV 2001



John M. Bulger, Acting District Director
Immigration & Naturalization Service

Executed this 28 day of NOV 2001



Michael J. Creppy, Chief Immigration Judge
Executive Office for Immigration Review

DEPARTMENT OF CORRECTIONS
APPROVED AS TO FORM AND LEGALITY



GENERAL COUNSEL